

156285

STATE OF ILLINOIS     )  
                              )     SS  
COUNTY OF ST. CLAIR )

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, )

Complainant, )

v. )

PCB 77-84

PAUL SAUGET, individually, SAUGET AND )  
COMPANY, a Delaware corporation, EAGLE )  
MARINE INDUSTRIES, INC., a Missouri )  
corporation, and RIVER PORT FLEETING )  
INC., a Missouri corporation, )

Respondents. )

N O T I C E

TO: Harold G. Baker, Jr.  
Attorney at Law  
56 South 65th Street  
Belleville, Illinois 62223

Eagle Marine Industries, Inc.  
% C. T. Corporation Systems,  
Registered Agent  
208 S. LaSalle Street  
Chicago, Illinois 60604

River Port Fleeting, Inc.  
% C. T. Corporation Systems  
208 S. LaSalle Street  
Chicago, Illinois 60604

YOU ARE HEREBY NOTIFIED of the filing of the attached  
Amended Complaint which was mailed to the Pollution Control Board  
on August 4, 1977, a copy of which is attached hereto and  
herewith served upon you.

BY: WILLIAM J. SCOTT  
ATTORNEY GENERAL

BY: Ann L. Carr  
Assistant Attorney General  
Environmental Control Division  
Southern Region

500 South Second Street  
Springfield, Illinois 62706  
(217) 782-1090

STATE OF ILLINOIS )  
 ) SS  
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, )  
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 Complainant, )  
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 v. ) PCB 77-84  
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 PAUL SAUGET, individually, SAUGET AND )  
 COMPANY, a Delaware corporation, EAGLE )  
 MARINE INDUSTRIES, INC., a Missouri )  
 corporation, and RIVER PORT FLEETING )  
 INC., a Missouri corporation, )  
 )  
 Respondents. )

**AMENDED COMPLAINT**

NOW COMES the Complainant ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by William J. Scott, Attorney General, and complaining of the Respondents PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., states as follows:

COUNT I

1. The Complainant ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Agency") is an administrative agency established in the executive branch of the state government by Section 4 of the Illinois

Environmental Protection Act, Ill. Rev. Stat., 1975, ch. 111 1/2, par. 1004 ("Act").

2. The Respondent PAUL SAUGET is an officer and a principal owner of SAUGET AND COMPANY, a Delaware corporation.

3. The Respondent SAUGET AND COMPANY is a corporation organized under the laws of the State of Delaware and, at all times pertinent to this Complaint until November 15, 1973, was authorized to do business in the State of Illinois.

4. On November 15, 1973, the Secretary of State of the State of Illinois revoked the authority of the Respondent SAUGET AND COMPANY to transact business in the State of Illinois.

5. At all times pertinent to this Complaint, beginning before July 1, 1970, and continuing each and every day to on or about January 21, 1975, the Respondents, PAUL SAUGET and SAUGET AND COMPANY, and each of them, operated a refuse disposal site of approximately 35 acres located in Township 2 north, Range 10 west of the 3rd Principal Meridian, Centreville Township, St. Clair County, Illinois. Said refuse disposal site is located partly within the limits of the Village of Sauget, Illinois, and lies adjacent to the Mississippi River.

6. The Respondent EAGLE MARINE INDUSTRIES, INC. is a corporation organized under the laws of the State of Missouri and, at all times pertinent to this Complaint licensed to do business in the State of Illinois.

7. Prior to a December of 1973 amendment to its articles of incorporation Respondent EAGLE MARINE INDUSTRIES, INC. was known as Notre Dame Fleeting & Towing, Inc.

8. Respondent EAGLE MARINE INDUSTRIES, INC. has owned at all times pertinent to this Complaint, and presently owns a portion of the refuse disposal site operated by Respondents PAUL SAUGET and SAUGET AND COMPANY.

9. The Respondent RIVER PORT FLEETING, INC. is a corporation organized under the laws of the State of Missouri and, at all times pertinent to this Complaint licensed to do business in the State of Illinois.

10. Respondent RIVER PORT FLEETING, INC. has from January of 1975 to the present owned a portion of the refuse disposal site operated by Respondents PAUL SAUGET and SAUGET AND COMPANY.

11. Section 21 of the Act, Ill. Rev. Stat., 1975, ch. 111 1/2, par. 1021, provides in part:

"No person shall:

(a) Cause or allow the open dumping of garbage;

(b) Cause or allow the open dumping of any other refuse in violation of regulations adopted by the Board;

\* \* \*

(c) Conduct any refuse-collection or refuse-disposal operations, except for refuse generated by the operator's own activities, without a permit granted by the Agency upon such conditions, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations adopted thereunder...."

12. Pollution Control Board Rules and Regulations, Chapter 7: Solid Waste ("Chapter 7:), Rule 301, provides:

"No person shall cause or allow the operation of a sanitary landfill unless each requirement of this Part [Rules 301-318] is performed."

13. Rule 305(c) of Chapter 7 provides:

"Unless otherwise specifically provided by permit, the following cover requirements shall be performed:

(c) Final Cover - a compacted layer of not less than two feet of suitable material shall be placed over the entire surface of each portion of the final lift not

Later than 60 days following the placement of refuse in the final lift, unless a different schedule has been authorized in the Operating Permit."

14. No permit issued to any of the Respondents authorized a mode of operation contrary to that prescribed in Rule 305(c).

15. Disposal operations at the above-described site were discontinued on or about January 21, 1975.

16. From March 22, 1975, and continuing each and every day until the date of filing of this Complaint, the Respondents PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., and each of them, have failed to place the required final cover over the above-described site in violation of Rule 305(c) of Chapter 7 and of Section 21 of the Act.

WHEREFORE, the Complainant ILLINOIS ENVIRONMENTAL PROTECTION AGENCY prays:

1. That the Board set a hearing date in this matter to be not less than twenty-one (21) days from the date of service of this Complaint, at which time the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., each be required to answer the allegations herein.

2. That The Board, after due consideration of any statements, testimony, and arguments as shall be duly submitted at the hearing, or upon default in the appearance of the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., enter and issue a final order directing the Respondents and each of them to cease and desist from further violations.

3. That the Board impose upon the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., jointly and severally, a monetary penalty of Ten Thousand Dollars (\$10,000) for the violation alleged, plus One Thousand Dollars (\$1000) for each day on which the violation alleged shall have continued.

4. That the Board require the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., to post a performance bond or other security to assure the correction of the violation alleged within the time prescribed.

5. That the Board issue and enter such additional final order, or make such additional final determination, as it shall deem appropriate under the circumstances.

COUNT II

1-8. Complainant realleges and incorporates by reference paragraphs 1-8 of Count I as paragraphs 1-8 of this Count II.

9. Section 12(a) of the Act, Ill. Rev. Stat., 1975, ch. 111 1/2, par. 1012(a), provides:

"No person shall:

(a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act."

10. Pollution Control Board Rules and Regulations, Chapter 3: Water Pollution ("Chapter 3"), Rule 203(a), provides in part:

"Except as otherwise provided in this Chapter, all waters of the State shall meet the following standards:

(a) Freedom from unnatural sludge or bottom deposits, floating debris, visible oil, odor, unnatural plant or algal growth, unnatural color or turbidity, or matter in concentrations or combinations toxic or harmful to human, animal, plant or aquatic life of other than natural origin."

11. In the spring of 1973 beginning on or about March 26,

1973, and continuing through at least May 11, 1973, the above-described site was flooded by the Mississippi River, and all refuse previously deposited which had not received cover then became either a bottom deposit or floating debris in the Mississippi River.

12. During the period of time in the spring of 1973 when the above-described site was flooded by the Mississippi River, the Respondents, PAUL SAUGET, SAUGET AND COMPANY, and EAGLE MARINE INDUSTRIES, INC., caused or allowed refuse to be dumped into the water on the site, which refuse was carried off the site and into the main channel of the Mississippi River by receding flood waters.

13. The aforesaid conduct by the Respondents, PAUL SAUGET, SAUGET AND COMPANY, and EAGLE MARINE INDUSTRIES, INC., constitutes violations of Rule 203(a) of Chapter 3 and of Section 12(a) of the Act.

WHEREFORE, the Complainant ILLINOIS ENVIRONMENTAL PROTECTION AGENCY prays:

1. That the Board set a hearing date in this matter to be not less than twenty-one (21) days from the date of service of this Complaint, at which time the Respondents, PAUL SAUGET, SAUGET

AND COMPANY, and EAGLE MARINE INDUSTRIES, INC., each be required to answer the allegations herein.

2. That the Board, after due consideration of any statements, testimony, and arguments as shall be duly submitted at the hearing, or upon default in the appearance of the Respondents, PAUL SAUGET, SAUGET AND COMPANY, and EAGLE MARINE INDUSTRIES, INC., enter and issue a final order directing the Respondents and each of them to cease and desist from further violations.

3. That the Board impose upon the Respondents, PAUL SAUGET, SAUGET AND COMPANY, and EAGLE MARINE INDUSTRIES, INC., jointly and severally, a monetary penalty of Ten Thousand Dollars (\$10,000) for the violation alleged, plus One Thousand Dollars (\$1000) for each day on which the violation alleged shall have continued.

4. That the Board require the Respondents, PAUL SAUGET, SAUGET AND COMPANY, and EAGLE MARINE INDUSTRIES, INC., to post a performance bond or other security to assure the correction of the violation alleged within the time prescribed.

5. That the Board issue and enter such additional final order, or make such additional final determination, as it shall deem appropriate under the circumstances.

COUNT III

1-10. Complainant realleges and incorporates by reference paragraphs 1-10 of Count I as paragraphs 1-10 of this Count III.

11. Section 12(d) of the Act, Ill. Rev. Stat., 1975, ch. 111 1/2, par. 1012(d), provides:

"No person shall:

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard."

12. Beginning on or about July 1, 1970, and continuing each and every day of operation until the cessation of dumping in late 1974 or early 1975, the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., and each of them caused or allowed the placement of refuse in the above-described site so as to create a water pollution hazard, in that:

(a) refuse placed in the above-described site was subject to flooding and removal by the Mississippi River; and

(b) inadequate cover over refuse in the above-described site creates a great hazard that leachate will be generated

and will migrate into the groundwater and into the Mississippi River.

13. The aforesaid conduct by the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., constitute violations of Section 12(d) of the Act.

WHEREFORE, the Complainant, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY prays:

1. That the Board set a hearing date in this matter to be not less than twenty-one (21) days from the date of service of this Complaint, at which time the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., each be required to answer the allegations herein.

2. That the Board, after due consideration of any statements, testimony, and arguments as shall be duly submitted at the hearing, or upon default in the appearance of the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., enter and issue a final order directing the Respondents and each of them to cease and desist from further violations.

3. That the Board impose upon the Respondents, PAUL SAUGET,

SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., jointly and severally, a monetary penalty of Ten Thousand Dollars (\$10,000) for the violation alleged, plus One Thousand Dollars (\$1000) for each day on which the violation alleged shall have continued.

4. That the Board require the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., to post a performance bond or other security to assure the correction of the violation alleged within the time prescribed.

5. That the Board issue and enter such additional final order, or make such additional final determination, as it shall deem appropriate under the circumstances.

#### COUNT IV

1-10. Complainant realleges and incorporates by reference paragraphs 1-10 of Count I as paragraphs 1-10 of this Count IV.

11. Section 9(c) of the Act, Ill. Rev. Stat., 1975, ch. 111 1/2, par. 1009(c), provides in pertinent part:

"No person shall:

(c) Cause or allow the open burning of refuse, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and approved by the Agency pursuant to regulations adopted by the Board under this Act."

12. Beginning on or about September 8, 1976, and continuing each and every day until September 27, 1976, the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., and each of them caused or allowed the open burning of refuse at the above-described site, in violation of Section 9(c) of the Act.

WHEREFORE, the Complainant ILLINOIS ENVIRONMENTAL PROTECTION AGENCY prays:

1. That the Board set a hearing date in this matter to be not less than twenty-one (21) days from the date of service of this Complaint, at which time the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., each be required to answer the allegations herein.

2. That the Board, after due consideration of any statements, testimony, and arguments as shall be duly submitted at the hearing, or upon default in the appearance of the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT

FLEETING, INC., enter and issue a final order directing the Respondents and each of them to cease and desist from further violations.

3. That the Board impose upon the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., jointly and severally, a monetary penalty of Ten Thousand Dollars (\$10,000) for the violation alleged, plus One Thousand Dollars (\$1000) for each day on which the violation alleged shall have continued.

4. That the Board require the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., to post a performance bond or other security to assure the correction of the violation alleged within the time prescribed.

5. That the Board issue and enter such additional final order, or make such additional final determination, as it shall deem appropriate under the circumstances.

#### COUNT V

1-10. Complainant realleges and incorporates by reference paragraphs 1-10 of Count I as paragraphs 1-10 of this Count V.

11. Section 21 of the Act, Ill. Rev. Stat., 1975, ch. 111 1/2, par. 1021, provides in part:

"No person shall:

(a) Cause or allow the open dumping of garbage;

(b) Cause or allow the open dumping of any other refuse in violation of regulations adopted by the Board;..."

12. Section 49(c) of the Environmental Protection Act, Ill. Rev. Stat., 1975, ch. 111 1/2, par. 1049(c), provides in pertinent part:

"All rules and regulations of the Air Pollution Control Board, the Sanitary Water Board, or the Department of Public Health relating to subjects embraced within this Act shall remain in full force and effect until repealed, amended, or superseded by regulations under this Act."

13. In 1966 the Department of Public Health, Division of Sanitary Engineering, adopted "Rules and Regulations for Refuse Disposal Sites and Facilities" hereinafter "Public Health Regulations" which through Section 49(c) of the Act were in force until July 27, 1973.

14. Rule 5.07(b) of these Public Health Regulations provides:

"Rule 5.07. COVER. Cover material shall be of

such quality as to prevent fly and rodent attraction and breeding, blowing litter, release of odors, fire hazards, and unsightly appearance, and which will permit only minimal percolation of surface water when properly compacted. Cover shall be applied as follows:

\* \* \*

"(b) Final Cover. A compacted layer of at least two (2) feet of material in addition to the daily cover shall be placed over the entire surface of all completed portions of the fill within six (6) months following the final placement of refuse. Final cover shall be graded as provided on the approved plan and to prevent ponding. The surface of the final cover shall be maintained at the plan elevation at all times, by the placement of additional cover material where necessary."

15. On each and every day from October 26, 1973 to the present, Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., have not placed a compacted layer of at least two (2) feet of material over the entire surface of all completed portions of the fill, in violation of Rule 5.07(b) of the Public Health Regulations and hence in violation of Section 21(b) of the Act.

WHEREFORE, the Complainant ILLINOIS ENVIRONMENTAL PROTECTION AGENCY prays:

1. That the Board set a hearing date in this matter to be

not less than Twenty-one (21) days from the date of service of this Complaint, at which time the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., be required to answer the allegations herein.

2. That the Board after due consideration of any statements, testimony, and arguments as shall be duly submitted at the hearing, or upon default in the appearance of the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., enter and issue a final order directing the Respondents and each of them to cease and desist from further violations.

3. That the Board impose upon the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., jointly and severally, a monetary penalty of Ten Thousand Dollars (\$10,000) for the violation alleged, plus One Thousand Dollars (\$1000) for each day on which the violation alleged shall have continued.

4. That the Board require the Respondents, PAUL SAUGET, SAUGET AND COMPANY, EAGLE MARINE INDUSTRIES, INC., and RIVER PORT FLEETING, INC., to post a performance bond or other security to assure the correction of the violation alleged within the time prescribed.

5. That the Board issue and enter such additional final order, or make such additional final determination, as it shall deem appropriate under the circumstances.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: WILLIAM J. SCOTT  
ATTORNEY GENERAL

BY: Russell R. Eggert  
Russell R. Eggert  
Assistant Attorney General  
Environmental Control Division  
Southern Region

OF COUNSEL:

Ann L. Carr  
Assistant Attorney General  
Environmental Control Division  
Southern Region  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-1090

DATED: August 4, 1977

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 4th day of August, 1977, send by certified mail, with postage thereon fully prepaid, a true and correct copy of the foregoing instruments entitled  
NOTICE and AMENDED COMPLAINT

TO: Harold G. Baker, Jr.  
Attorney at Law  
56 South 65th Street  
Belleville, Illinois 62223

Eagle Marine Industries, Inc.  
% C. T. Corporation Systems,  
Registered Agent  
208 S. LaSalle Street  
Chicago, Illinois 60604

River Port Fleeting, Inc.  
% C. T. Corporation Systems  
208 S. LaSalle Street  
Chicago, Illinois 60604

Melroy B. Hutnick  
Hearing Officer  
9425 West Main Street  
Belleville, Illinois 62223

and the original and nine true and correct copies of the same  
foregoing instruments

TO: Pollution Control Board  
309 W. Washington Street  
Chicago, Illinois 60606

In addition to the foregoing, a copy of the said Notice and Amended Complaint has been sent to Mr. Clyde L. Kuehn, State's Attorney of St. Clair County, St. Clair County Courthouse, Belleville, Illinois 62220.

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Ann L. Carr  
Assistant Attorney General